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PATENTREMARKS

Claims 2, 4, 10-13, 15, 17 and 18 are amended, claims 1 and 14 are canceled and claims 19-24 are added herein. Accordingly, claims 2-13, 15, and 17-24 will be pending upon entry of this amendment.

The following remarks are responsive to the Office action dated February 12, 2004.

Response to Rejections Under §112, Second Paragraph

Claim 1 is <sup>canceled</sup> ~~amended herein to remove the first recitation of the flexible pocket, leaving only the second recitation to the flexible pocket having a hollow interior receiving the plural number of absorbent feminine care articles.~~

Claim 14 is canceled herein.

~~Reference to a stack of articles has been removed from claim 1. Claim 15 is submitted to no longer constitute an indefinite double recitation in view of such an amendment.~~ <sup>now depends from claim 19 and</sup>

For these reasons, the claims as now presented are submitted to satisfy the requirements of 35 U.S.C. §112, second paragraph.

Claim 19

New claim 19 is directed to a package comprising:  
a plural number of individually wrapped absorbent feminine care articles; and  
reclosable packaging comprising:  
a flexible pocket having a hollow interior receiving said plural number of absorbent feminine care articles, the hollow interior of the pocket having a volume which is substantially

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filled by the plural number of individually wrapped feminine care articles so that the pocket conforms to the articles, said pocket being of unitary construction;

an opening extending into the hollow interior of the pocket, said opening being sized and shaped for permitting at least one of said plural number of individually wrapped feminine care articles to be withdrawn from said hollow interior of the pocket;

a flap attached to the pocket and adapted for covering the opening to retain said plural number of individually wrapped feminine care articles in the hollow interior of the pocket, said flap being selectably moveable between an open position in which the opening is generally unobstructed by said flap to permit said article to be withdrawn through the opening and a closed position in which the flap covers the opening and an exterior area of the pocket to retain said plural number of articles in the pocket and to prevent said plural number of articles from passing through the opening; and

a reclosable adhesive closure comprising an adhesive material positioned on said package for releasably securing the flap in its closed position on said exterior area of the pocket, the adhesive closure being spaced from a distal edge of the flap to permit a portion of the flap to be grasped and separated from the pocket without releasing the closure.  
(Emphasis added).

New claim 19 is submitted to be patentable over the references of record, and in particular U.S. Patent No. 6,015,045 (Joseph et al.) and Canadian publication No. 2,109,782 (Larose et al.), in that whether considered alone or in combination the references fail to show or suggest a package having a pocket of unitary construction and a flap that in a

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closed position covers a pocket opening and an exterior portion of the pocket.

Joseph et al. disclose a hygienic package (10) with a reclosable flap (32) formed by cutting out a portion of the package to define an opening (40) for accessing the contents of the package. In this manner, when the flap is closed, it is flush with the rest of the package while providing a closure for the opening. As shown in Fig. 1 and described at column 6, lines 7-55, a retaining band (44) is formed as a separate component, joinable to the material used to make the dispensing package." The retaining band (44) extends above the opening (40) and has adhesive (50) applied thereto. In use, when the flap (32) is moved to a closed position, it overlays the retaining band (44) in flush alignment with the dispensing package and is secured in the closed position by the adhesive (50) on the retaining band.

Joseph et al. clearly fail to disclose or otherwise even suggest a pocket of unitary construction wherein a flap overlays an exterior area of the pocket in a closed position of the flap. Rather the package disclosed by Joseph et al. comprises at least two separate pieces (i.e., the package material and the retaining band (44)) joined together. The Office action characterizes the combination of the package material and the retaining band (44) as together being analogous to applicants' pocket. While applicant disagrees that the retaining band (44) can be properly characterized as an exterior area of the package, this is the only characterization of Joseph et al. that would satisfy the recitation in new claim 19 (and canceled claim 1) of a flap covering an exterior area of the pocket in the closed position

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of the flap. That is, absent the retaining band (44), the flap (32) of Joseph et al. would not cover any portion of the package material. However, the two-piece construction of the package material and retaining band (44) of Joseph et al. is clearly not a unitary construction.

In contrast, the pocket of the package recited in new claim 19 is of unitary construction, i.e., the pocket is defined by a single web of material, whether the web is a single layer material or a laminate material. For example, where the web is a laminate, the outermost layer defines the dimensions of the pocket (i.e., there is no inner layer that extends outward of the outermost layer as in Joseph et al.). As a result, for the flap to cover an exterior area of the pocket, the flap cannot be in flush alignment with the pocket.

The article disclosed in Larose et al. comprises a pouch (30) and a pair of flaps (20, 40) extending outward from the top and bottom of the pocket. To close the pouch (30), the flaps are both folded over the pocket, with one flap overlaying the other, and the flaps are secured together. Thus, Larose et al. fail to disclose a flap covering and releasably secured to an exterior area of the pocket. Moreover, it is clear that the pouch (30) of the article disclosed by Larose et al. is not of unitary construction. Rather, a printed outer sheet appears to be secured to a base sheet (14) at folded side edges of the base sheet.

Because Joseph et al. and Larose et al. each fail to show or suggest a package having a pocket of unitary construction, a combination of the references would similarly fail to disclose such a pocket.

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For these reasons, new claim 19 is submitted to be patentable over Joseph et al., Larose et al. and the other references of record.

Claims 2-13, 15 and 17-18, and new claim 20, now depend directly or indirectly from new claim 19 and are submitted to be patentable over the references of record for the same reasons as claim 19.

Claim 21

New claim 21 is directed to a package comprising:  
a plural number of individually wrapped absorbent feminine care articles; and  
reclosable packaging comprising (inter alia):  
a flexible pocket having a hollow interior . . . ;  
an opening extending into the hollow interior of the pocket . . . ;

a flap attached to the pocket and adapted for covering the opening to retain said plural number of individually wrapped feminine care articles in the hollow interior of the pocket, said flap being selectably moveable between an open position in which the opening is generally unobstructed by said flap to permit said article to be withdrawn through the opening and a closed position in which the flap covers the opening and an exterior area of the pocket to retain said plural number of articles in the pocket and to prevent said plural number of articles from passing through the opening, *the flap being everywhere free from flush alignment with the pocket in the closed position of said flap*; and

a reclosable adhesive closure comprising an adhesive material positioned on said package for releasably securing the

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flap in its closed position on said exterior area of the pocket, the adhesive closure being spaced from a distal edge of the flap to permit a portion of the flap to be grasped and separated from the pocket without releasing the closure.

Claim 21 is submitted to be patentable over the references of record, and in particular Joseph et al. and Larose et al., in that whether considered alone or in combination the references fail to show or suggest a package having a pocket and a flap that covers both the pocket opening and an exterior area of the flap wherein the flap is everywhere free from flush alignment with the pocket in the closed position of the flap, and wherein the flap is releasably secured to the exterior area of the pocket in the closed position of the flap.

As discussed above in connection with claim 19, when the flap (32) of the package disclosed by Joseph et al. is closed, it is flush with the rest of the package. More specifically, in its closed position the flap (32) it overlays the retaining band (44), which is inset from the rest of the package, in flush alignment with the dispensing package and is secured to the retaining band by the adhesive (50). Joseph et al. thus fail to show or suggest the flap being everywhere free from flush alignment with the package. The flush alignment arrangement of Joseph et al. is a direct result of cutting the flap out of the package so that when the flap is closed, it fits into the cut out portion of package and does not overlay the package material.

Larose et al., also discussed previously, discloses an article having a central pouch (30) and a pair of longitudinally opposite flaps at the longitudinal ends of the pouch. To close the article, one flap is folded over the

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central pouch (30) and the other flap is then folded over the underlying flap. Neither of the flaps is secured to the pouch (30). Rather, the overlapping flap is secured to the underlying flap. Larose et al. therefore fail to disclose or suggest releasably securing a flap to an exterior area of a pocket as recited in new claim 21.

There is also no teaching found anywhere in Joseph et al. or Larose et al. that would motivate one skilled in the art to modify the flap (32) of Joseph et al. to be free from flush alignment with the package when the flap is closed. Joseph et al. specifically disclose cutting the flap from the package material itself. The flap thus fits within the cutout portion of the package upon closing the flap, e.g., in flush alignment with the package. In fact, Joseph et al. teach away from making the flap larger than the aperture covered by the flap. See, e.g., column 2, lines 13-21. Consequently, replacing the flush flap alignment arrangement disclosed in Joseph et al. with a flap that is free from flush alignment would be expressly against the teachings of Joseph et al.

One skilled in the art also would not have been motivated by Joseph et al. to modify the two flap arrangement of the article disclosed by Larose et al. to have a single flap that secures directly to the central pouch (30) of Larose et al. As is evident from Fig. 1 of Larose et al, the longitudinally opposite flaps each are configured to hold various hygiene related items. Thus, doing away with one of the flaps would defeat the express disclosure of Larose et al., i.e., to provide different sized pouches, compartments, etc. at the flaps.

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For these reasons, new claim 21 is submitted to be patentable over Joseph et al., Larose et al. and the other references of record.

New claim 22 depends directly from claim 21 and is submitted to be patentable over the references of record for the same reasons as claim 21.

Claim 23

New claim 23 is directed to a package comprising:  
a plural number of individually wrapped absorbent feminine care articles; and  
reclosable packaging comprising, *inter alia*:  
a flexible pocket comprising at least in part a first wall . . . ;  
an opening extending into the hollow interior of the pocket . . . ;  
a flap attached to the pocket and adapted for covering the opening . . . said flap being selectably moveable between an open position in which the opening is generally unobstructed by said flap to permit said article to be withdrawn through the opening and a closed position in which the flap covers the opening and a first portion of the first wall of the pocket to retain said plural number of articles in the pocket and to prevent said plural number of articles from passing through the opening, a second portion of the first wall being uncovered by the flap in the closed position of the flap, the flap being free from flush alignment with said uncovered second portion of the first wall in the closed position of said flap; and



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a reclosable adhesive closure comprising an adhesive material positioned on said package for releasably securing the flap in its closed position on said exterior area of the pocket, the adhesive closure being spaced from a distal edge of the flap to permit a portion of the flap to be grasped and separated from the pocket without releasing the closure.

New claim 23 is submitted to be patentable over the references of record, and in particular Joseph et al. and Larose et al., for reasons similar to those discussed above in connection with claim 21. That is, whether considered alone or in combination the references fail to show or suggest a package having a pocket including a first wall, and a flap that covers both the pocket opening and a first portion of the first wall wherein the flap is free from flush alignment with a second, uncovered portion of the first wall. Additionally, the flap is releasably secured to the exterior area of the pocket in the closed position of the flap.

In the closed position of the flap (32) of the package disclosed by Joseph et al., the flap covers the retaining band (44) but is otherwise in flush alignment with the remainder of the wall of the package from which the flap was initially cut. There is no motivation provided by Larose et al. to modify the flush alignment arrangement of Joseph et al. In fact, as noted previously, Joseph et al. teaches away from sizing the flap larger than the aperture covered by the flap.

For these reasons, new claim 23 is submitted to be patentable over Joseph et al., Larose et al. and the other references of record.

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New claim 24 depends directly from new claim 23 and is submitted to be patentable over the references of record for the same reasons as claim 23.

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CONCLUSION

In view of the foregoing, favorable consideration of claims 2-13, 15, and 17-24 as now presented is respectively requested.

Respectfully submitted,



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